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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,017	03/31/2004	Byung Eun Yoo	F-8177	2616

28107 7590 02/08/2007  
JORDAN AND HAMBURG LLP  
122 EAST 42ND STREET  
SUITE 4000  
NEW YORK, NY 10168

EXAMINER
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GILBERT, ANDREW M

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

5/18

<b>Office Action Summary</b>	<b>Application No.</b> 10/816,017	<b>Applicant(s)</b> YOO, BYUNG EUN	
	<b>Examiner</b> Andrew M. Gilbert	<b>Art Unit</b> 3767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Acknowledgements*

1. This office action is in response to the reply filed on 10/26/2006.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Felix et al (5792098). Felix et al discloses a hand operable portable irrigator (Fig 1) comprising: a suction hose (20); an air pump (16, 14); an injection nozzle (12); wherein a liquid supplying body (10) is rigidly connected to said suction hose, injection nozzle, and air pump, the liquid supplying body having an entrance/exit passage (22, 24); said suction hose being integrally connected to a flange (Fig 1 where (20) connects to (10)) being disposed in said body; said injection nozzle includes a plurality of holes (66) disposed in a radial direction at a front end and the injection nozzle being connected to a connecting member (Fig 1, 2; see 36) in a spiral manner; and said air pump is installed at a lower side of the entrance/exit passage of said body (14, 16; Fig 1; wherein the air pump is leaving the body on the lower side).
4. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Liu et al (6447490). Liu et al discloses a hand operable portable irrigator (Fig 1) comprising: a suction hose (8); an air pump (7); an injection nozzle (Fig 4); wherein a liquid supplying

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body (9) is rigidly connected to said suction hose, injection nozzle, and air pump, the liquid supplying body having an entrance/exit passage (11); said suction hose being integrally connected to a flange (Fig 3) being disposed in said body; said injection nozzle includes a plurality of holes (15; Fig 4) disposed in a radial direction at a front end and the injection nozzle being connected to a connecting member (16, Fig 4; 12, Fig 3) in a spiral manner; and said air pump is installed at a lower side of the entrance/exit passage of said body (Fig 3).

***Response to Arguments***

5. Applicant's arguments filed 10/26/2006 have been fully considered but they are not persuasive.
6. The Applicant argues that:
  - i. "the liquid entrance/exit passage divided in three directions is not formed in the handpiece" of Felix (Remarks, pg 3, paragraph 2) and Lui (Remarks, pg 7, paragraph 2)
  - ii. "the function and the role of the liquid supplying body (10) having the liquid entrance/exit passage of the claimed invention are different from those of the handpiece (10) of Felix" (Remarks, pg 4, paragraph 1)
  - iii. The connection structure between the suction irrigation tip (12) and the handpiece (10) of Felix are different from that of the claimed invention (Remarks, pg 5, paragraph 1)

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iv. The irrigation liquid is emitted from the irrigation tube, but the holes are not disposed in the radial direction in Felix (Remarks, pg 5, paragraph 1) or Lui (Remarks, pg 8, paragraph 2)

v. In the applicant's invention the liquid passing through the liquid entrance/exit passage (10) is supplied to the injection nozzle in one direction by hand manipulation of the air pump. Thus, the subject matter of Felix is dissimilar to the claimed invention in function and role so the claimed invention is not provided by Felix (Remarks, pg 6, paragraph 1) or is it provided by Lui because in Lui the sprayer bottle (7) must be entirely taken in the operator's hand, thus being inconvenient in handling compared to the air pump of the claimed invention (Remarks, pg 9, paragraph 2)

vi. Felix does not disclose an air pump installed at the lower side of the liquid supplying body (Remarks, pg 6, paragraph 2)

7. In response to applicant's argument (i) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the structure of the liquid entrance/exit passage is divided into three directions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In the instance case, the Applicant claiming that the liquid supplying body is rigidly connected to said suction hose, said injection nozzle, and said air pump merely requires the elements to be

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connected to the liquid supply body and nothing more. The Examiner suggests reciting the structure the Applicant uses for arguments into the claim limitations.

8. In response to applicant's argument (ii), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

9. In response to applicant's argument (iii), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, the device of Felix is not structurally distinguishable from the Applicant's claimed invention. The Examiner suggests adding claim limitations to further define the connections between the body and the suction hose and injection nozzle.

10. In response to the applicant's argument (iv), the Examiner notes that the Applicant has ignored the Examiner's cited reference. The plurality of holes (66) are clearly shown in Figs 1-4 to be disposed in a radial direction. The Applicant's citation of a differing embodiment (Fig 7) does not obviate the fact that Felix clearly discloses the claimed features in the embodiment cited by the Examiner in the previous office action.

11. In response to applicant's argument (v) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

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(i.e., hand manipulation of the pump causing liquid passage through the liquid entrance passage/exit) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In the instant case, the Examiner further notes that “hand operable” or “hand manipulation” are sufficiently broad limitations to include operation of an electrical pump by controlling a trigger to actuate the pump when desired. The Examiner recommends adding structure that further distinguishes the air pump, ie – that is a hand-supported squeezable bulb, to further distinguish the Applicant’s invention over the prior art.

12. In response to applicant's argument that (v), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

13. In response to applicant's argument that (vi), the Examiner notes that the claimed limitation of the air pump being “installed at a lower side of the entrance/exit passage of said body” is sufficiently broad to include that the air pump is installed at a lower portion, ie – side, of the handle of the body (wherein the Examiner has notes that the handle has an upper portion where the entrance/exit passage connects to the injection nozzle, and a lower portion where the entrance/exit passage connects to the tubing (16, Fig 1; col 3, lns 37-50); or the limitation is sufficiently broad to include that the air pump is installed at a lower side of the entrance/exit passage by fluid communication through the

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connection between the suction passage (14, 16) with the entrance/exit passage (22).

The Examiner notes that the limitation installed *at* does not necessitate that the air pump be installed *in* the body.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

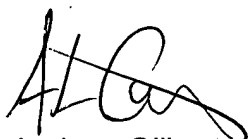
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Gilbert



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